

**CONTRACT DOCUMENTS**

**CITY OF LINCOLN  
NEBRASKA**

**RADIAL TRANSIT TIRES - STARTRAN  
BID NO. 11-060**

**Cross-Dillon Tire  
PO Box 81208  
Lincoln, NE 68528  
402.438.3000**

**CITY OF LINCOLN  
CONTRACT AGREEMENT**

THIS CONTRACT, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_ 2011, by and between **Cross-Dillon Tire, PO Box 81208, Lincoln, NE 68528**, hereinafter called "Contractor", and the City of Lincoln, Nebraska, a municipal corporation, hereinafter called "City".

WHEREAS, the City has caused to be prepared, in accordance with law, Specifications, Plans, and other Contract Documents for the Work herein described, and has approved and adopted said documents and has caused to be published an advertisement for and in connection with said Work, to-wit:

For providing **Radial Transit Tires - StarTran, Bid No. 11-060** and,

WHEREAS, the Contractor, in response to such advertisement, has submitted to the City, in the manner and at the time specified, a sealed Proposal/Supplier Response in accordance with the terms of said advertisement; and,

WHEREAS, the City, in the manner prescribed by law has publicly opened, read aloud, examined, and canvassed the Proposals/Supplier Responses submitted in response to such advertisement, and as a result of such canvass has determined and declared the Contractor to be the lowest responsible bidder for the said Work for the sum or sums named in the Contractor's Proposal/Supplier Responses, a copy thereof being attached to and made a part of this Contract;

NOW, THEREFORE, in consideration of the sums to be paid to the Contractor and the mutual covenants herein contained, the Contractor and the City has agreed and hereby agree as follows:

1. The Contractor agrees to (a) furnish all tools, equipment, supplies, superintendence, transportation, and other accessories, services, and facilities; (b) furnish all materials, supplies, and equipment specified to be incorporated into and form a permanent part of the complete work; (c) provide and perform all necessary labor in a substantial and workmanlike manner and in accordance with the provisions of the Contract Documents; and (d) execute and complete all Work included in and covered by the City's award of this Contract to the Contractor, such award being based on the acceptance by the City of the Contractor's Proposal, or part thereof, as follows:

**Agreement to full proposal**

2. The City agrees to pay to the Contractor for the performance of the Work embraced in this Contract, the Contractor agrees to accept as full compensation therefore, the following sums and prices for all Work covered by and included in the Contract award and designated above, payment thereof to be made in the manner provided by the City:

**City will pay for products/service, according to the Line Item pricing as listed in Contractors Proposal/Supplier Response, a copy thereof being attached to and made a part of this Contract. The City shall order on an as needed basis for the duration of the contract.**

3. **Equal Employment Opportunity.** In connection with the carrying out of this project, the contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, ancestry, disability, age or marital status. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, national origin, ancestry, disability, age or marital status. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other compensation; and selection for training, including apprenticeship.

4. E-Verify. In accordance with Neb. Rev. Stat. 4-108 through 4-114, the contractor agrees to register with and use a federal immigration verification system, to determine the work eligibility status of new employees performing services within the state of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324 a, otherwise known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee pursuant to the Immigration Reform and Control Act of 1986. The Contractor shall not discriminate against any employee or applicant for employment to be employed in the performance of this section pursuant to the requirements of state law and 8 U.S.C.A 1324b. The contractor shall require any subcontractor to comply with the provisions of this section.
5. Termination. This Contract may be terminated by the following:
  - 5.1) Termination for Convenience. Either party may terminate this Contract upon thirty (30) days written notice to the other party for any reason without penalty.
  - 5.2) Termination for Cause. The City may terminate the Contract for cause if the Contractor:
    - 5.2.1) Refuses or fails to supply the proper labor, materials and equipment necessary to provide services and/or commodities.
    - 5.2.2) Disregards Federal, State or local laws, ordinances, regulations, resolutions or orders.
    - 5.2.3) Otherwise commits a substantial breach or default of any provision of the Contract Document. In the event of a substantial breach or default the City will provide the Contractor written notice of said breach or default and allow the Contractor ten (10) days from the date of the written notice to cure such breach or default. If said breach or default is not cured within ten (10) days from the date of notice, then the contract shall terminate.
6. Independent Contractor. It is the express intent of the parties that this contract shall not create an employer-employee relationship. Employees of the Contractor shall not be deemed to be employees of the City and employees of the City shall not be deemed to be employees of the Contractor. The Contractor and the City shall be responsible to their respective employees for all salary and benefits. Neither the Contractor's employees nor the City's employees shall be entitled to any salary, wages, or benefits from the other party, including but not limited to overtime, vacation, retirement benefits, workers' compensation, sick leave or injury leave. Contractor shall also be responsible for maintaining workers' compensation insurance, unemployment insurance for its employees, and for payment of all federal, state, local and any other payroll taxes with respect to its employees' compensation.
7. Contract Term. This Contract shall be effective upon execution by both parties. The term of the Contract shall be a two (2) year term with the option to renew for one (1) additional two (2) year term.
8. The Contract Documents comprise the Contract, and consist of the following:
  1. Instructions to Bidders
  2. Accepted Proposal/Response
  3. Contract Agreement
  4. Specifications
  5. Special Provisions
  6. Addendum #1 & #2
  7. City Protest Procedures

These Contract Agreements, together with the other Contract Documents herein above mentioned, form this Contract, and they are as fully a part of the Contract as if hereto attached or herein repeated.

The Contractor and the City hereby agree that all the terms and conditions of this Contract shall be binding upon themselves, and their heirs, administrators, executors, legal and personal representatives, successors, and assigns.

IN WITNESS WHEREOF, the Contractor and the City do hereby execute this contract.

**EXECUTION BY THE CITY OF LINCOLN, NEBRASKA**

ATTEST:

CITY OF LINCOLN, NEBRASKA

City Clerk \_\_\_\_\_

Mayor \_\_\_\_\_

Approved by Resolution No. \_\_\_\_\_

dated \_\_\_\_\_

**EXECUTION BY CONTRACTOR**

IF A CORPORATION:

ATTEST:

Secretary \_\_\_\_\_

(SEAL)

Cross Diner Title  
Name of Corporation

4101 W O ST  
(Address)

By: \_\_\_\_\_  
Duly Authorized Official

GENERAL MANAGER  
Legal Title of Official

IF OTHER TYPE OF ORGANIZATION:

\_\_\_\_\_  
Name of Organization

\_\_\_\_\_  
Type of Organization

\_\_\_\_\_  
(Address)

By: \_\_\_\_\_  
Member

By: \_\_\_\_\_  
Member

IF AN INDIVIDUAL:

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Signature

# City of Lincoln/Lancaster County (Lincoln Purchasing) Supplier Response

Bid Information		Contact Information		Ship to Information	
Bid Creator	Robert Walla Asst. Purchasing Agent	Address	Purchasing 440 S. 8th St. Lincoln, NE 68516	Address	StarTran 710 J St. Lincoln, NE 68508
Email	rwalla@lincoln.ne.gov	Contact	Robert Walla Asst. Purchasing Agent	Contact	
Phone	1 (402) 441-8309		Purchasing	Department	Building
Fax	1 (402) 441-6513			Floor/Room	Telephone
Bid Number	11-060 Addendum 2	Department		Fax	
Title	Radial Transit Tires - StarTran	Building	Suite 200	Email	
Bid Type	Bid	Floor/Room			
Issue Date	03/16/2011	Telephone	1 (402) 441-8309		
Close Date	4/8/2011 12:00:00 PM CST	Fax	1 (402) 441-6513		
Need by Date		Email	rwalla@lincoln.ne.gov		

## Supplier Information

Company Cross-Dillon Tire  
 Address PO Box 81208  
  
 Lincoln, NE 68528  
  
 Contact  
 Department  
 Building  
 Floor/Room  
 Telephone 402 (438) 3000  
 Fax 402 (438) 3003  
 Email jgregg@crossdillon.com  
 Submitted 4/8/2011 11:19:06 AM CST  
 Total \$57,121.40

Signature \_\_\_\_\_

## Supplier Notes

## Bid Notes

See Bid Attachments for information.

## Bid Messages

Please review the following and respond where necessary

#	Name	Note	Response
1	Electronic Signature	Please check here for your electronic signature.	Yes
2	Instructions to Bidders	I acknowledge reading and understanding the Instructions to Bidders.	Yes

3	Contact	Name of person submitting this bid:	Josh Gregg
4	Delivery	State number of delivery days ARO. FOB to the City/County at the location specified with all transportation charges paid.	7-10
5	Sample Contract	I acknowledge reading and understanding the sample contract.	Yes
6	Specifications	I acknowledge reading and understanding the specifications.	Yes
7	Renewal is an Option	Contract Extension Renewal is an option.	Yes
8	Term Clause of Contract	(a) Bid prices firm for the full contract period. YES or NO   (b) Bid prices subject to escalation/de-escalation YES or NO   (c) If (b), state period for which prices will remain firm: through _____	yes, prices good through 12/31/11 unless manufacturer announces increase with written notice
9	Tire Disposal	Does your company participate in a Tire Recycling Program? Yes OR No? If yes, explain the program. If no, how do you dispose of tires?	scrap tires used for landfill cover at Butler County
10	Lease Information	I am submitting a bid for the lease of the tires being requested in this proposal: YES or NO If YES, I have attached specific information regarding our companies lease program, including prices, to the Response Attachment section of my ebid response.	no
11	Term Contract Provisions	I acknowledge reading and understanding the Term Contract Provisions.	Yes
12	Agreement to Addendum No. 1	Respondent hereby certifies that the change set forth in this addendum has been incorporated in their proposal and is part of their bid.  Reason: See Bid Attachments section for Addendum information.	Yes
13	Agreement to Addendum No. 2	Respondent hereby certifies that the change set forth in this addendum has been incorporated in their proposal and is part of their bid.  Reason: See Bid Attachments section for Addendum information.	Yes

## Line Items

#	Qty	UOM	Description	Response
1	80	EA	Radial Transit Tires - Size - 305/85 R22.5 Purchase Price	\$611.24
<p>Manufacturer: Michelen OR Goodyear      Manufacturer #: XZU3 OR Metro Miler</p> <p>Item Notes:      Vendor must indicate the Brand, Model, Ply and Load Range of the tire being bid in the Supplier Notes section of their ebid response.</p> <p>Supplier Notes: Michelin XZU3</p>				
2	20	EA	Radial Transit Tires - Size - 275/70 R22.5 Purchase Price	\$411.11
<p>Manufacturer: Michelen OR Goodyear      Manufacturer #: XZU2 OR Metro Miler</p> <p>Item Notes:      Vendor must indicate the Brand, Model, Ply and Load Range of the tire being bid in the Supplier Notes section of their ebid response.</p> <p>Supplier Notes: Michelin XZU2</p>				
3	100	EA	Tire Carcass Fee - Pick up and Disposal	\$0.00
<p>Item Notes:      If you charge no fee for this service, put a 0 in the Line Item and state "no charge" in the Supplier Notes section of the Line Item.</p> <p>Supplier Notes: no charge for scrap unless disposal quantity exceeds new tire purchases. \$10/tire for scrap for excess.</p>				
Response Total:				\$57,121.40

**SPECIFICATIONS  
FOR  
ANNUAL SUPPLY RADIAL TRANSIT TIRES - STARTRAN**

**1. SUPPLEMENTAL INSTRUCTIONS**

- 1.1 The City of Lincoln is requesting bids to purchase or lease special City radial tires for our transit system vehicles which have a minimum 16 ply, load rating H.
  - 1.1.1 Vendors wishing to provide a bid for leasing must provide lease details and all other requirements as part of their bid response.
  - 1.1.2 The lease information shall be attached to the Response Attachment section of your ebid response.
- 1.2 The following are the current brands of radial transit tires which will be accepted for purposes of this contract award:
  - 1.2.1 Goodyear Metro Miler G152A 305/85R22.5
  - 1.2.2 Michelin XZU 3 305/85/R22.5
  - 1.2.3 Goodyear Metro Miler G152 275/70R22.5
  - 1.2.4 Michelin XZU2 275/70R22.5
  - 1.2.5 See section 2 below for additional information on brands and models.
- 1.3 Bidder shall submit bid documents and all supporting material via ebid.
- 1.4 All inquiries regarding these specifications shall be directed via e-mail or faxed written request to Bob Walla, Asst. Purchasing Agent ([rwalla@lincoln.ne.gov](mailto:rwalla@lincoln.ne.gov)) or fax: (402) 441-6513.
  - 1.4.1 These inquiries and/or responses shall be distributed to prospective bidders electronically as an addenda.
  - 1.4.2 The Purchasing Office shall only reply to written inquiries received within five (5) calendar days of bid opening.
  - 1.4.3 No direct contact is allowed between vendor and other City staff throughout the bid process.
    - 1.4.3.1 Failure to comply with this directive may result in Vendor bid being rejected.
- 1.5 StarTran receives funding from the Federal Government for the operation of their program
  - 1.5.1 Vendors must read, acknowledge and follow the requirements of the Federal guidelines attached to the bid.
  - 1.5.2 Failure to agree to the Federal Requirements or return certifications as required will result in the rejection of bid.
- 1.6 StarTran has the option to purchase or lease an additional 20 tires of each size from the awarded contract at the current contract price through the term of the contract.
  - 1.6.1 If this optional amount is exceeded in any term of the contract, a new bid may be solicited according to FTA Procurement Guidelines.
- 1.7 Prices submitted must include delivery, FOB destination, to:  
StarTran Garage  
710 J Street  
Lincoln, Ne 68508

**2. DEMONSTRATIONS/SAMPLES**

- 2.1 Vendors that bid a tire brand that is not listed in section 1.2 may submit a bid for a tire with equivalent characteristics and proof of performance.
  - 2.1.1 Vendor must submit product information that verifies equivalency with tire brands listed in section 1.2 in the Response Attachment section of their ebid response.



- 2.1.2 Vendor must submit a list of at least 3 references where the proposed tires have been in use for a Transit Agency for at least 2 years.
  - 2.1.2.1 Vendor shall provide the name of the Transit Agency, Contact Name, Phone Number and Address on company letterhead and attach it to the Response Attachment section of their ebid response.
- 2.1.3 Vendor must attach tire wear information from an independent testing facility and warranty information for the tires being proposed to the Response Attachment section of their ebid response.
- 2.1.4 Vendor may be required to deliver the tire being proposed to the StarTran office for inspection.
  - 2.1.4.1 Tire will be delivered at no charge to the City of Lincoln.
- 2.2 Approval of tires for use within the StarTran fleet is vested solely with the City of Lincoln.
- 2.3 Samples requested shall be delivered to:
  - StarTran Garage
  - 710 J Street
  - Lincoln, Ne 68508

3. **TIRE RECOVERY REQUIREMENT**

- 3.1 Contractor shall submit a price in the Line Item section of their ebid response for pick-up and disposal of carcasses which are replaced by tires purchased from the contractor.
  - 3.1.1 Any local, State or Federal charges required shall be added to the cost of the tire being bid.
    - 3.1.1.1 These charges must not be shown as separate cost items on contractor's invoices.
  - 3.1.2 Vendor must indicate their method of disposal of used tires and whether or not they are participate in a recycling program.
- 3.2 StarTran may retain any tire carcass deemed to be of value to its operation.

4. **WARRANTY**

- 4.1 A statement of the manufacturer's warranty must be attached to the Response Attachment section of your ebid response.
  - 4.1.1 Warranty information and pricing shall be considered in making an award.
  - 4.1.2 Any refusal or failure by contractor to honor manufacturer's warranty shall be sufficient justification for cancellation of the agreement.

5. **CONTRACT TERM AND REPORTS**

- 5.1 The City shall enter into a contract for a two (2) year period with the option to renew for one (1) additional two (2) year period upon mutual consent by both parties.
- 5.2 Pricing provided in this bid shall remain firm for a period of (1) year from the date of execution unless otherwise indicated in your submitted proposal.
  - 5.2.1 Any price increase shall be verifiable and must be submitted to the City Purchasing Office within 30 days of the increase with detailed justification of the increase.
  - 5.2.2 Detailed information includes invoices from manufacturers showing the exact price and product being charged compared to earlier invoices for the same product.

- 5.3 Vendor MUST provide a quarterly report to the City Purchasing office which shows the number of tires of each size, delivered and paid for by StarTran.
  - 5.3.1 Report must also provide unit pricing and total amount spent during this time period.
  - 5.3.2 Failure to send this report to the City Purchasing Office may result in the termination of the contract and exclusion of the Contractor on future StarTran bids.
  - 5.3.3 Send Reports To:  
City/County Purchasing Office  
Robert Walla  
440 So. 8<sup>th</sup> Street  
Lincoln, NE 68508
  - 5.3.4 You must list the bid number, bid name and company name on the report and the words, "Startran Report" on the outside of the envelope.

# **ADDENDUM #1**

**Issue Date:04/04/11**

**SPECIFICATION NO.11-060**

**FOR**

## **RADIAL TRANSIT TIRES - STARTRAN**

Addenda are instruments issued by the City prior to the date for receipt of offers which will modify or interpret the specification document by addition, deletion, clarification or correction. Please acknowledge receipt of this addendum in the space provided in the Attribute Section.

Be advised of the following changes and clarifications to the City's specification and bidding documents:

- 1) This bid has been extended until Friday, April 8, 2011 at 4:00pm.
- 2) All of the Federal Requirements for this bid have been removed due to the projected use of Local funds throughout the contract period. All other terms and conditions apply.

**Robert Walla**

**City/County Purchasing**

# **ADDENDUM #2**

**Issue Date:04/04/11**

## **SPECIFICATION NO.11-060**

**FOR**

## **RADIAL TRANSIT TIRES - STARTRAN**

Addenda are instruments issued by the City prior to the date for receipt of offers which will modify or interpret the specification document by addition, deletion, clarification or correction. Please acknowledge receipt of this addendum in the space provided in the Attribute Section.

Be advised of the following changes and clarifications to the City's specification and bidding documents:

1. The ADVERTISE 1 TIME WEDNESDAY, MARCH 16, 2011 establishes that seal bids will be received by the Purchasing Agent BY ELECTRONIC BID PROCESS. Moreover, the INSTRUCTIONS TO BIDDERS establish that "Seal bid will be received in the office of the Purchasing Division, 440 So. 8th St. Lincoln, NE 68508. Could you please clarify the procedure that we have to follow to properly submit our bid?

You must submit your bid using the City/County Ebid system. For information on how to properly submit, call Kim at 402-441-7417.

2. BID No. 11-060 FORMS AND ADDENDA - Please clarify the forms or addenda that have to be completed and signed by Michelin North America, Inc.

All of the forms and addendum information is included in the Bid Attachment section of the Ebid.

3. CONTRACT DOCUMENTS (SAMPLE) SECTION 5 TERMINATION FOR CONVENIENCE and ADDENDUM: TERMINATION BY THE CITY FOR CONVENIENCE. The Contract Document (Sample), section 5.1 Termination for convenience, establishes that either party may terminate this contract upon 30 days written notice. Moreover, the Addendum: TERMINATION BY THE CITY FOR CONVENIENCE establishes "The City may at its option, terminate this contract in whole or in part at any time without cause by written notice thereof to the Contractor".

Please consider adding the following language:

"Notwithstanding any language in the contract to the contrary, if the contract is to terminate for default, either party may terminate the contract if, after ten (10) days written notice, such default is not cured by the defaulting party. Furthermore, notwithstanding any language in the contract to the contrary, performance under this contract may be terminated by either party in accordance with this clause in whole or, from time to time, in part, upon thirty (30) days prior written notice whenever the terminating party shall elect."

Any deviation from the language listed in the bid must be requested on company letterhead and attached to the Response Attachment section of your ebid response.

3. SPECIFICATIONS FOR ANNUAL SUPPLY RADIAL TRANSIT TIRES – STARTRAN - TIRE RECOVERY REQUIREMENT

3.1 Respectfully, we ask to change the language in section 3.1.2 “Method of disposal of used tires” (we can use scrap or non serviceable).

3.2 In section 3.2, please clarify the meaning of this clause.

Any deviation from the language listed in the bid must be requested on company letterhead and attached to the Response Attachment section of your ebid response.

4. Could you please provide us with a list of vehicles by tire size, type of vehicle and number of tires?

a.	20	2001 35' Gillig Lowfloor	6	305/85R22.5
b.	10	2004 35' Gillig Lowfloor	6	305/85R22.5
c.	15	2006 35' Gillig Lowfloor	6	305/85R22.5
d.	13	2011 29' Gillig Lowfloor	6	275/70R22.5

5. What are the total annual vehicle miles per tire size? (i.e. there are 20 vehicles (6 wheel positions) tire size 12R22.5 total annual vehicle miles of 700,000 miles)

Since we just got the 2011 buses we do not know mileage on the 275/70R22.5, but we will give an approximation of 530,000 miles. That being the case we would anticipate the 305/85R22.5 to run approximately 1,175,000 miles.

6. What is the current cost per mile rate by tire size?

We do not have an established cost per mile rate since we buy tires and recap them.

7. What is the current tire mileage performance by size?

The 305/85R22.5 on average get 105,000 miles, we have not run the 275/70R22.5 yet so we do not know the mileage.

8. What are your required Pull Points (i.e. the legal limit of 2/32 on fronts and 4/32 on rears or does STARTRAN has a different requirement)?

The “Pull Point” as stated is correct, we pull at the legal limits of 4/32 front and 2/32 rear.

9. Please specify your spare tires requirements.

We would like to keep 10% in spares.

10. Do you currently use retread and if so, what tread patterns are already approved?  
We use retread now and waste hauler rib by Bandag are the only approved retread.
11. To minimize the overall cost to STARTRAN, please provide us with the quantity of tires that have been damaged due to curb cuts within the past year.  
We do not track our curb damaged tires, but I would guess it to 15-20 tires.
12. Please confirm that STARTRAN will accept new tires upon initial delivery into the fleet and that these tires can then be regrooved and retreaded and placed on the rear axles of the vehicles.  
We will not be doing any regrooving. Regrooving is not worth the man hours it takes to do the work.
13. Please confirm that the contract includes tires and tires services? If the contract includes tires services, please respond to the following questions:
- a. Please define the type of tire services that STARTRAN will require (scope of work).
  - b. How many tire service people do you have with your current vendor?
  - c. How many tire service locations do you have? (please include days and hours of service)
  - d. In order to ensure that we offer our service staff a pay rate that is commensurate, can you please provide us with the Cities hourly pay rate for a similar job? Alternatively, can you please tell us what the current tire service vendors hourly pay rate is?
  - e. What is the overall current service rate per month?
  - f. Please confirm that STARTRAN will provide a safe and secure storage and work space.
  - g. Do you require a 24/7 emergency service?
- StarTran has two tire service men and will continue to use them.
14. May we please get a copy of your Holiday Schedule?  
This question is not applicable to this bid.
15. May we please get a copy of your Work Rules?  
This question is not applicable to this bid.
16. Confirm delivery locations and times.  
710 J Street, Lincoln NE 68508. Hours of operation 8:00a.m -4:30p.m.

17. Please confirm STARTRAN preferred delivery times.

Delivery time is between 7:00a.m. -1:00p.m Monday through Friday

18. Please consider adding a section called "Fleet List" and include:

On a monthly basis STARTRAN shall furnish the Bidder with an accurate Fleet list, showing:

- Active vehicles
- New vehicles put into service during the month, with the start service date
- Retired vehicles removed from service during the month, specifying date of removal from service
  
- All tire fitment and removals – to include vehicle number, tire brand numbers, remaining tread depths of the tire being fitted as well as the tire being removed and air pressure readings of the tire being fitted.
- Tire brand numbers of any tires acquired as well as the date of acquisition.
- Tire brand numbers of any scrap tires leaving the property as well as remaining tread depth at the time of scrapping.
- Occasionally the Contractor may request information concerning specific tires or vehicles.

A response is requested within three business days.

Any deviation from the language listed in the bid must be requested on company letterhead and attached to the Response Attachment section of your ebid response.

19. In order to protect both parties please consider adding additional sections containing the following

- A. Force Majeure.

"Notwithstanding any language in the contract to the contrary, Contractor shall not be liable for a failure to perform that arises from causes or events beyond its reasonable control and without its fault or negligence. Contractor may suspend performance of its obligations under this contract without obligation to STARTRAN during the occurrence of any excusable delay. Excusable delays shall include, but not be limited to, results from acts of God or public enemy, restrictions, prohibitions, priorities or allocations imposed by governmental authority, strikes or labor disputes, lack of or inability to obtain raw materials or supplies, floods, fires, earthquakes, epidemics, or unusually severe weather."

Any deviation from the language listed in the bid must be requested on company letterhead and attached to the Response Attachment section of your ebid response.

- B. Assignment.

"Notwithstanding the foregoing, nothing herein shall prohibit the supply of products or services pursuant to this Agreement by Contractor's authorized independent dealers, franchisees or affiliates."

Any deviation from the language listed in the bid must be requested on company letterhead and attached to the Response Attachment section of your ebid response.

C. Indemnification.

"Notwithstanding anything in the Agreement to the contrary, Contractor shall not be liable in any way and shall have no obligation to indemnify for any acts, errors or omissions by subcontractors, consultants, agents, third parties, DBE agencies, representatives or Contractor's authorized independent dealers or franchisees who may provide products or services to STARTRAN hereunder."

Any deviation from the language listed in the bid must be requested on company letterhead and attached to the Response Attachment section of your ebid response.

All other terms and conditions of this bid shall remain unchanged.

Sincerely,

Robert Walla  
Asst. Purchasing Agent



# **SPECIAL PROVISIONS FOR TERM CONTRACTS**

## **PURCHASING DEPARTMENT CITY OF LINCOLN/LANCASTER COUNTY, NEBRASKA**

### **1. ESTIMATED QUANTITIES**

- 1.1 The quantities set forth in the line items and specification document are approximate and represent the estimated requirements for the contract period.
- 1.2 Items listed may or may not be an inclusive requirements for this category.
- 1.3 Category items not listed, but distributed by bidder are to be referred to as kindred items. Kindred items shall receive the same percentage of discount or pricing structure as items listed in the specification document.
- 1.4 The unit prices and the extended total prices shall be used as a basis for the evaluation of bids. The actual quantity of materials necessary may be more or less than the estimates listed in the specification document, but the City/County shall be neither obligated nor limited to any specified amount. If possible, the Owners will restrict increases/decreases to 20% of the estimated quantities listed in the specification document.

### **2. CONTRACT PERIOD**

- 2.1 The material shall be delivered as ordered during the contract period, beginning from the date of contract execution and ending as indicated in the specifications or in the Attribute Section of the bid.
- 2.2 Bidder must indicate in the Bid, if extension renewals are an option.
- 2.3 By mutual consent of both parties it is understood and agreed that the contract may be renewed at the same prices and/or under the same conditions governing the original contract.

### **3. BID PRICES**

- 3.1 Bidders must state in the Attribute Section if the bid prices will remain firm for the full contract period; or if the bid prices will be subject to escalation/de-escalation.
- 3.2 Escalation/De-escalation Clause: In the event that prevailing market conditions warrant an adjustment in bid prices contained in the contract, the following escalation/de-escalation clause shall be the only clause applicable or acceptable:
  1. Contractor shall give written notice to the Purchasing Agent of any proposed changes from contract prices not less than thirty (30) calendar days prior to the effective date of said price changes.
  2. Such notice must be accompanied by a certified copy of the supplier's advisory or notification to the contractor of price changes.
  3. No price escalation will be authorized in excess of the amount of the increase referred to on the supplier's notice.
  4. Purchasing shall issue a contract Addendum with revised pricing upon receipt and approval. The Addendum will be executed by both parties for the remaining term of the contract.
  5. The approved price change shall be honored for all orders received by the contractor after the effective date of such price change.
  6. Approved price changes are not applicable to orders already issued and in process at time of price change.

7. Purchasing reserves the right to audit and/or examine any pertinent books, documents, papers, records or invoices relating directly to the contract transaction in question after reasonable notice and during normal business hours.

8. The Purchasing Agent retains the right to determine whether or not such proposed price changes are in the best interests of the City/County.

9. If in the opinion of the Purchasing Agent any proposed increase is found unacceptable, the Purchasing Agent reserves the right to cancel the contract upon thirty (30) calendar days written notice.

10. Contractors must tie any price change clause to an industry-wide or otherwise nationally recognized index, or some other form of verifiable document. Contractor will put the Purchasing Agent on the mailing lists for such publication so that the Purchasing Agent can monitor said changes. Such membership will be no cost to the Owners.

### **4. CONTRACT ADMINISTRATION**

- 4.1 The Purchasing Division will issue a Contract to all successful bidders. Such contract will incorporate the specifications and all other forms used during the bid process.
- 4.2 Orders for materials will be made as needed by the various Agencies following execution by all parties.
- 4.3 Contractor may be asked to assist the Purchasing Agent with the development of a list of repetitively purchased commodities, to periodically update such list, and to assist in the development of a list of suitable substitutions.
- 4.4 Contractor shall provide technical advice upon request, and assist in the evaluation of new products.
- 4.5 Contractor shall monitor orders to ensure the highest possible fill rate and minimize back-orders.

### **5. QUARTERLY REPORT**

- 5.1 Upon request, the contractor shall provide to the Purchasing Agent a quarterly report, showing all purchases made under the terms and conditions of the contract.
- 5.2 Such quarterly report shall itemize the following information:
  1. Each ordering department.
  2. Items and quantities purchased by department.
  3. Total dollar amount of purchases by department.

# City of Lincoln - Bid Protest Procedures

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2.18.035

(5) To those bidders who maintain a bona fide business office in the City of Lincoln, whose products may be made outside the confines of the County of Lancaster;

(6) To those bidders who maintain a bona fide business office in the County of Lancaster, whose products may be made outside the confines of the County of Lancaster;

(7) To those bidders whose commodities are manufactured, mined, produced or grown within the State of Nebraska and to all firms, corporations, or individuals doing business as Nebraska firms, corporations, or individuals when quality is equal or better and delivered price is the same or less than the other bids received; provided, however, the above preferences shall not be given where the purchase is made in whole or in part with federal funds and the applicable federal procurement regulations prohibit the giving of any local preference, in which case, in the event of more than one low tie bid, the tie shall be broken by the drawing of lots.

(8) To those bidders whose commodities are manufactured, mined, produced or grown within the United States of America and to all firms, corporations, or individuals doing business as firms registered in states other than Nebraska, when quality is equal or better and delivered price is the same or less than the other bids received; provided, however, the above preferences shall not be given where the purchase is made in whole or in part with federal funds and the applicable federal procurement regulations prohibit the giving of any local preference, in which case, in the event of more than one low tie bid, the tie shall be broken by the drawing of lots.

(l) In case of actual emergency, and with the consent of the Purchasing Agent, the head of any using agency may purchase directly any supplies whose immediate procurement is essential to prevent delays in the work of the using agency. The head of such using agency shall send to the Purchasing Agent a requisition and a copy of the delivery record, together with a full written report of the circumstances of the emergency.

(m) The Purchasing Agent shall prescribe by rules and regulations the procedure under which emergency purchases by heads of using agencies may be made.

(n) The Purchasing Agent shall have the authority with approval of the Mayor to declare vendors who default on their bids and contracts irresponsible bidders and to disqualify them from receiving any business from the municipality for a stated period of time.

(o) The Purchasing Agent shall have the authority to join with other units of government in cooperative purchasing when the best interests of the city would be served thereby; provided, however, such purchases shall be made to the extent possible by giving notice and preference to qualified local bidders in accordance with the rules and regulations established in this chapter and the policies of the Purchasing Division.

(p) The Purchasing Agent shall keep a commodity record showing commodities purchased, from whom purchased, and the price paid. (Ord. 17697 §2; July 17, 2000: prior Ord. 17044 §1; August 19, 1996: Ord. 15980 §2; September 30, 1991: Ord. 15384 §3; January 8, 1990: P.C. §2.44.030: Ord. 13561 §1; March 21, 1983: Ord. 12934 §1; June 9, 1980: Ord. 12472 §1; January 8, 1979: Ord. 12327 §1; June 19, 1978: Ord. 9036 §3; June 13, 1966).

## 2.18.035 Bid Protests; Definitions; Appeals Board; Fees.

### (a) Definitions.

(1) Interested party shall mean an actual or prospective bidder whose direct economic interest would be affected by the award of a contract by the City to another party, or by the failure of the City to award a contract to such actual or prospective bidder.

(2) Protest shall mean a written objection by an interested party on any phase of the bidding process, including specification preparation, bid solicitation, and intent to award, for the acquisition of supplies or services.

(3) Protester shall mean an interested party who has filed a protest pursuant to subsection (b).

(4) Procurement Appeals Board shall mean an independent panel of five disinterested individuals appointed by the Mayor, which individuals shall have a thorough knowledge of the purchasing process and practices, and laws applicable thereto. Members of such board shall be appointed for three-year, staggered terms; provided, however, two of the members first appointed shall serve for a period of one year, two shall serve for a period of two years, and one for a period of three years, with each appointee thereafter, except for appointees filling a vacancy, serving for a period of three years.

(b) Right to Protest. An interested party may protest to the City Purchasing Agent, which protest shall be submitted in writing on company letterhead. Protests based on alleged apparent improprieties in a solicitation or other request for proposals must be filed before bid opening. In all other cases, the protest must be filed within five working days following the

Cont'd bid protest

bid opening or if the protest is based on the selection of the lowest responsible bidder, not later than five working days following the selection of the lowest responsible bidder. To expedite handling of protests, the envelope containing the protest should be clearly labeled "Protest".

The written protest shall include as a minimum the following:

- (1) The name and address of the interested party;
- (2) Appropriate identification of the relevant solicitation, and if a bid has been opened, its number, and date of opening;
- (3) A statement of reasons for the protest;
- (4) Supporting exhibits, evidence, or documents to substantiate any claims unless not available within the filing time, in which case the expected availability date shall be indicated.

Upon timely receipt of a protest, the City shall not proceed further with the solicitation or with the award of the contract and shall suspend performance under the contract until the Mayor has made a decision on the protest.

(c) Authority to Resolve Protests. Prior to the commencement of an appeal to the Procurement Appeals Board concerning any protest, the Purchasing Agent shall attempt to resolve any protest filed by an interested party concerning any solicitation. If the protest is not resolved by mutual agreement, the Purchasing Agent shall issue a decision in writing within five working days. The decision shall (1) state the reasons for the action taken, and (2) inform the interested party of their right to the administrative review as provided by the Procurement Appeals Board. A copy of the decision shall be mailed or otherwise furnished immediately to the protester and all other bidders. If not satisfied with the decision of the Purchasing Agent, any protester may appeal to the Procurement Appeals Board, but the decision shall be final unless the protester files a timely appeal with the Procurement Appeals Board.

(d) Appeals Board Procedures. Any protester, within five working days of receipt of a decision of the Purchasing Agent, may file with the Finance Director a written notice of appeal for a hearing before the Procurement Appeals Board. The Notice of Appeal shall be accompanied by a deposit of \$500.00 to defray the cost of processing such appeal, which deposit shall be returned if the Mayor decides in favor of the protester filing the appeal. The Notice of Appeal must clearly state the action protested and the basis of appeal.

Upon receipt of an appeal from an protester, the Finance Director shall convene the Board within ten working days or as soon thereafter as reasonably possible to conduct an administrative review of the appeal. The Board shall decide whether the solicitation being appealed was in accordance with all applicable laws and regulations and the terms and conditions of all applicable specifications, and whether waiver of specifications, conditions or defects in a bid, if any, were justified and in the best interest of the City.

Within ten working days of hearing such appeal, the Board shall submit its findings and recommendations to the Mayor. If all five members are present, an affirmative vote of three shall be required to pass the recommendation on to the Mayor. If only three members are present, only an affirmative vote of two shall be required to pass the recommendation on to the Mayor. Should it become impossible to obtain a quorum of three members, the appeal shall proceed directly to the Mayor without Procurement Appeals Board action.

No determination by the Board concerning an issue of law or fact shall be final or binding on the City.

(e) Finality of Decision. The Mayor shall consider the recommendations of the Purchasing Agent, the Procurement Appeals Board, and the Department Head or agency for which the solicitation was made and shall make the final decision on the protest. The Mayor's decision shall be final and binding upon the City. (Ord. 18495 §1; January 31, 2005; prior Ord. 16442 §1; August 9, 1993).

#### 2.18.040 Surplus or Obsolete Stock.

All using divisions shall submit to the Purchasing Agent reports showing stocks of supplies or equipment which are no longer used or which have become obsolete, worn out, or scrapped.

The Purchasing Agent shall have authority to sell all supplies or equipment which have become unsuitable for public use, or to exchange the same for, or trade in the same on new supplies or equipment. Sales under this section shall be made to the highest responsible bidder.

The Purchasing Agent shall have authority to transfer the declared surplus stock of one using division to another using division which may have need for its use. (Ord. 15384 §4; January 8, 1990; P.C. §2.44.040; Ord. 9036 §4; June 13, 1966).

# INSTRUCTIONS TO BIDDERS

## CITY OF LINCOLN, NEBRASKA

E-Bid

### 1. BIDDING PROCEDURE

- 1.1 Sealed bid, formal and informal, subject to Instructions and General Conditions and any special conditions set forth herein, will be received in the office of the Purchasing Division, 440 So. 8<sup>th</sup> St., Lincoln, NE 68508, until the bid closing date and time indicated for furnishing the City of Lincoln, hereinafter referred to as "City", the materials, supplies, equipment or services shown in the electronic bid request.
- 1.2 Bidders shall use the electronic bid system for submitting bids and must complete all required fields.
- 1.3 Identify the item you will furnish by brand or manufacturer's name and catalog numbers. Also furnish specifications and descriptive literature if not bidding the specific manufacturer or model as listed in the specifications.
- 1.4 Any person submitting a bid for a firm, corporation, or other organization must show evidence of his authority so to bind such firm, corporation, or organization.
- 1.5 Bids received after the time and date established for receiving bids will be rejected.
- 1.6 The Bidders and public are invited, but not required, to attend the formal opening of bids. At the opening, prices will be displayed electronically and/or read aloud to the public. The pricing is also available for immediate viewing on-line. No decisions related to an award of a contract or purchase order will be made at the opening.
- 1.7 If bidding on a construction contract, the City's Standard Specifications for Municipal Construction 2006 shall apply.
  - 1.7.1 Bidders may obtain this document from the City's Design Engineering Division of the Public Works & Utilities Department for a small fee.
  - 1.7.2 Said document can be reviewed at Design Engineering or at the office of the Purchasing Division.
  - 1.7.3 Said document is available on the web site.  
<http://www.lincoln.ne.gov/city/pworks/engine/dconst/standard/stdnspec/index.htm>

### 2. BID SECURITY

- 2.1 Bid security, as a guarantee of good faith, in the form of a certified check, cashier's check, or bid bond, may be required to be submitted with this bidding document, as indicated on the bid.
  - 2.1.1 Bid security, if required, shall be in the amount specified on the bid. The bid security must be scanned and attached to the "Response Attachments" section of your response or it can be faxed to the Purchasing Division at 402-441-6513. The original bid security should then be sent or delivered to the office of the Purchasing Division, 440 S. 8<sup>th</sup> St., Ste. 200, Lincoln, NE 68508 within three (3) days of bid closing.
  - 2.1.2 If bid security is not received in the office of the Purchasing Division as stated above, the vendor may be determined to be non-responsive.
- 2.2 If alternates are submitted, only one bid security will be required, provided the bid security is based on the amount of the highest gross bid.
- 2.3 Such bid security will be returned to the unsuccessful Bidders when the award of bid is made.
- 2.4 Bid security will be returned to the successful Bidder(s) as follows:
  - 2.4.1 For single order bids with specified quantities: upon the delivery of all equipment or merchandise, and upon final acceptance by the City.
  - 2.4.2 For all other contracts: upon approval by the City of the executed contract and bonds.
- 2.5 City shall have the right to retain the bid security of Bidders to whom an award is being considered until either:
  - 2.5.1 A contract has been executed and bonds have been furnished.
  - 2.5.2 The specified time has elapsed so that the bids may be withdrawn.
  - 2.5.3 All bids have been rejected.
- 2.6 Bid security will be forfeited to the City as full liquidated damages, but not as a penalty, for any of the following reasons, as pertains to this bidding document:
  - 2.6.1 If the Bidder fails or refuses to enter into a contract on forms provided by the City, and/or if the Bidder fails to provide sufficient bonds or insurance within the time period as established in this bidding document.

### 3. BIDDER'S REPRESENTATION

- 3.1 Each Bidder by electronic signature and submitting a bid, represents that the Bidder has read and understands the bidding documents, and the bid has been made in accordance therewith.
- 3.2 Each Bidder for services further represents that the Bidder has examined and is familiar with the local conditions under which the work is to be done and has correlated the observations with the requirements of the bidding documents.

**4. CLARIFICATION OF BIDDING DOCUMENTS**

- 4.1 Bidders shall promptly notify the Purchasing Agent of any ambiguity, inconsistency or error which they may discover upon examination of the bidding documents.
- 4.2 Bidders desiring clarification or interpretation of the bidding documents for formal bids shall make a written request which must reach the Purchasing Agent at least five (5) calendar days prior to the date and time for receipt of formal bids.
- 4.3 Changes made to the bidding documents will be issued electronically. All vendors registered for that bid will be notified of the addendum. Subsequent Bidders will only receive the bid with the addendum included.
- 4.4 Oral interpretations or changes to the bidding documents made in any manner other than written form will not be binding on the City; and Bidders shall not rely upon such interpretations or changes.

**5. ADDENDA**

- 5.1 Addenda are instruments issued by the City prior to the date for receipt of bids which modify or interpret the bidding document by addition, deletion, clarification or correction.
- 5.2 Addenda notification will be made available to all registered vendors immediately via e-mail for inspection on-line.
- 5.3 No formal addendums will be issued later than forty-eight (48) hours prior to the date and time for receipt of formal bids, except an addendum withdrawing the invitation to bid, or an addendum which includes postponement of the bid.

**6. INDEPENDENT PRICE DETERMINATION**

- 6.1 By signing and submitting this bid, the Bidder certifies that the prices in this bid have been arrived at independently, without consultation, communication or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other Bidder or with any competitor; unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the Bidder prior to bid opening directly or indirectly to any other Bidder or to any competitor; no attempt has been made, or will be made, by the Bidder to induce any person or firm to submit, or not to submit, a bid for the purpose of restricting competition.

**7. ANTI-LOBBYING PROVISION**

- 7.1 During the period between the bid advertisement date and the contract award, Bidders, including their agents and representatives, shall not lobby or promote their bid with the Mayor, any member of the City Council, or City staff except in the course of City sponsored inquiries, briefings, interviews, or presentations, unless requested by the City.

**8. BRAND NAMES**

- 8.1 Wherever in the specifications or bid that brand names, manufacturer, trade name, or catalog numbers are specified, it is for the purpose of establishing a grade or quality of material only; and the term "or equal" is deemed to follow.
- 8.2 It is the Bidder's responsibility to identify any alternate items offered in the bid, and prove to the satisfaction of the City that said item is equal to, or better than, the product specified.
- 8.3 Bids for alternate items shall be stated in the appropriate space on the e-bid form, or if the proposal form does not contain blanks for alternates, Bidder MUST attach to its bid document on Company letterhead a statement identifying the manufacturer and brand name of each proposed alternate, plus a complete description of the alternate items including illustrations, performance test data and any other information necessary for an evaluation.
- 8.4 The Bidder must indicate any variances by item number from the bidding document no matter how slight.
- 8.5 If variations are not stated in the bid, it will be assumed that the item being bid fully complies with the City's bidding documents.

**9. DEMONSTRATIONS/SAMPLES**

- 9.1 Bidders shall demonstrate the exact item(s) proposed within seven (7) calendar days from receipt of such request from the City.
- 9.2 Such demonstration can be at the City delivery location or a surrounding community.
- 9.3 If items are small and malleable, the Bidder is proposing an alternate product, the Bidder shall supply a sample of the exact item. Samples will be returned at Bidder's expense after receipt by the City of acceptable goods. The Bidder must indicate how samples are to be returned.

**10. DELIVERY (Non-Construction)**

- 10.1 Each Bidder shall state on the bid the date upon which it can make delivery of all equipment or merchandise.
- 10.2 The City reserves the right to cancel orders, or any part thereof, without obligation, if delivery is not made within the time(s) specified on the bid.
- 10.3 All bids shall be based upon **inside** delivery of the equipment/ merchandise F.O.B. to the City at the location specified by the City, with all transportation charges paid.
- 10.4 At the time of delivery, a designated City of Lincoln employee will sign the invoice/packing slip. The signature will only indicate that the order has been received and the items actually delivered agree with the delivery invoice. This signature does not indicate all items met specifications, were received in good condition and/or that there is not possible hidden damage or shortages.

**11. WARRANTIES, GUARANTEES AND MAINTENANCE**

- 11.1 Copies of the following documents, if requested, shall accompany the bid proposal for all items being bid:
  - 11.1.1 Manufacturer's warranties and/or guarantees.
  - 11.1.2 Bidder's maintenance policies and associated costs.
- 11.2 As a minimum requirement of the City, the Bidder will guarantee in writing that any defective components discovered within a one (1) year period after the date of acceptance shall be replaced at no expense to the City. Replacement parts of defective components shall be shipped at no cost to the City. Shipping costs for defective parts required to be returned to the Bidder shall be paid by the Bidder.

**12. ACCEPTANCE OF MATERIAL**

- 12.1 All components used in the manufacture or construction of materials, supplies and equipment, and all finished materials, shall be new, the latest make/model, of the best quality, and the highest grade workmanship.
- 12.2 Material delivered under this proposal shall remain the property of the Bidder until:
  - 12.2.1 A physical inspection and actual usage of the material is made and found to be acceptable to the City; and
  - 12.2.2 Material is determined to be in full compliance with the bidding documents and accepted bid.
- 12.3 In the event the delivered material is found to be defective or does not conform to the bidding documents and accepted bid, the City reserves the right to cancel the order upon written notice to the Bidder and return materials to the Bidder at Bidder's expense.
- 12.4 Awarded Bidder shall be required to furnish title to the material, free and clear of all liens and encumbrances, issued in the name of the City of Lincoln, Nebraska, as required by the bidding documents or purchase orders.
- 12.5 Awarded Bidder's advertising decals, stickers or other signs shall not be affixed to equipment. Vehicle mud flaps shall be installed blank side out with no advertisements. Manufacturer's standard production forgings, stampings, nameplates and logos are acceptable.

**13. BID EVALUATION AND AWARD**

- 13.1 The electronic signature shall be considered an offer on the part of the Bidder. Such offer shall be deemed accepted upon issuance by the City of purchase orders, contract award notifications, or other contract documents appropriate to the work.
- 13.2 No bid shall be modified or withdrawn for a period of ninety (90) calendar days after the time and date established for receiving bids, and each Bidder so agrees in submitting the bid.
- 13.3 In case of a discrepancy between the unit prices and their extensions, the unit prices shall govern.
- 13.4 The bid will be awarded to the lowest responsible, responsive Bidder whose bid will be most advantageous to the City, and as the City deems will best serve the requirements and interests of the City.
- 13.5 The City reserves the right to accept or reject any or all bids; to request rebids; to award bids item-by-item, with or without alternates, by groups, or "lump sum"; to waive minor irregularities in bids; such as shall best serve the requirements and interests of the City.
- 13.6 In order to determine if the Bidder has the experience, qualifications, resources and necessary attributes to provide the quality workmanship, materials and management required by the plans and specifications, the Bidder may be required to complete and submit additional information as deemed necessary by the City. Failure to provide the information requested to make this determination may be grounds for a declaration of non-responsive with respect to the Bidder.
- 13.7 The City reserves the right to reject irregular bids that contain unauthorized additions, conditions, alternate bids, or irregularities that make the bid incomplete, indefinite or ambiguous.
- 13.8 Any governmental agency may piggyback on any contract entered into from this bid.

**14. INDEMNIFICATION**

- 14.1 The Bidder shall indemnify and hold harmless the City of Lincoln, Nebraska from and against all losses, claims, damages, and expenses, including, attorney's fees arising out of or resulting from the performance of the contract that results in bodily injury, sickness, disease, death, or to injury to or destruction of tangible property, including the loss of use resulting therefrom and is caused in whole or in part by the Bidder, any subcontractor, any directly or indirectly employed by any of them or anyone for whose acts any of them may be liable. This section will not require the Bidder to indemnify or hold harmless the City of Lincoln for any losses, claims damages, and expenses arising out of or resulting from the sole negligence of the City of Lincoln, Nebraska.
- 14.2 In any and all claims against the City or any of its members, officers or employees by an employee of the Bidder, any subcontractor, anyone directly or indirectly employed by any of them or by anyone for whose acts made by any of them may be liable, the indemnification obligation under paragraph 14.1 shall not be limited in any way by any limitation of the amount or type of damages, compensation or benefits payable by or for the Bidder or any subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.

**15. TERMS OF PAYMENT**

- 15.1 Unless stated otherwise, the City will begin processing payment within thirty (30) calendar days after all labor has been performed and all equipment or other merchandise has been delivered, and all such labor and equipment and other materials have met all contract specifications.

**16. LAWS**

- 16.1 The laws of the State of Nebraska shall govern the rights, obligations, and remedies of the parties under this bid and any contract reached as a result of this process.
- 16.2 Bidder agrees to abide by all applicable local, state and federal laws and regulations concerning the handling and disclosure of private and confidential information concerning individuals and corporations as to inventions, copyrights, patents and patent rights.

**17. EQUIPMENT TAX ASSESSMENT**

- 17.1 Any bid for public improvement shall comply with Nebraska Revised Statute Sections 77-1323 and 77-1324. Indicating; every person, partnership, limited liability company, association or corporation furnishing labor or material in the repair, alteration, improvement, erection, or construction of any public improvement shall sign a certified statement which will accompany the contract. The certified statement shall state that all equipment to be used on the project, except that acquired since the assessment date, has been assessed for taxation for the current year, giving the county where assessed.

**18. AFFIRMATIVE ACTION**

- 18.1 The City of Lincoln provides equal opportunity for all Bidders and encourages minority businesses, women's businesses and locally owned business enterprises to participate in our bidding process.

**19. LIVING WAGE**

- 19.1 The Bidders agree to pay all employees employed in the performance of this contract, a base wage of not less than the City Living Wage per section 2.81 of the Lincoln Municipal Code. This wage is subject to change every July.

**20. INSURANCE**

- 20.1 All Bidders shall take special notice of the insurance provisions required for all City contracts (see *Insurance Requirements for All City Contracts*).

**21. EXECUTION OF AGREEMENT**

- 21.1 Depending on the type of service or commodity provided, one of the following methods will be employed. The method applicable to this contract will be checked below:

- ☐ a. **PURCHASE ORDER**, unless otherwise noted.
1. This contract shall consist of a City of Lincoln Purchase Order.
  2. A copy of the Bidder's bid response (or referenced bid number) attached and that the same, in all particulars, becomes the contract between the parties hereto: that both parties thereby accept and agree to the terms and conditions of said bid documents.
- ☒ b. **CONTRACT**, unless otherwise noted.
1. City will furnish copies of a Contract to the successful Bidder who shall prepare attachments as required. Insurance as evidenced by a Certificate of Insurance (as required), surety bonds properly executed (as required), and Contract signed and dated.
  2. The prepared documents shall be returned to the Purchasing Office within 10 days (unless otherwise noted).
  3. The City will sign and date the Contract and prepare an Executive Order or Directorial Order for signature.
  4. Upon approval and signature, the City will return one copy to the successful Bidder.

**22. TAXES AND TAX EXEMPTION CERTIFICATE**

- 22.1 The City is generally exempt from any taxes imposed by the state or federal government. A Tax Exemption Certificate will be provided as applicable.

**23. CITY AUDIT ADVISORY BOARD**

- 23.1 All parties of any City agreement shall be subject to audit pursuant to Chapter 4.66 of the Lincoln Municipal Code and shall make Available to a contract auditor, as defined therein, copies of all financial and performance related records and materials germane to the contract/order, as allowed by law.

24. **E-VERIFY**

- 24.1 In accordance with Neb. Rev. Stat. 4-108 through 4-114, the contractor agrees to register with and use a federal immigration verification system, to determine the work eligibility status of new employees performing services within the state of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324 a, otherwise known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee pursuant to the Immigration Reform and Control Act of 1986. The Contractor shall not discriminate against any employee or applicant for employment to be employed in the performance of this section pursuant to the requirements of state law and 8 U.S.C.A 1324b. The contractor shall require any subcontractor to comply with the provisions of this section. For information on the E-Verify Program, go to [www.uscis.gov/everify](http://www.uscis.gov/everify).



**Advertise 1 time**  
**Wednesday, March 16, 2011**

**City of Lincoln/Lancaster County**  
**Purchasing Division**  
**NOTICE TO BIDDERS**

Sealed bids will be received by the Purchasing Agent of the City of Lincoln/Lancaster County, Nebraska **BY ELECTRONIC BID PROCESS** until: **12:00 pm, CST, Friday, March 30, 2011** for providing the following:

**Radial Transit Tires - StarTran**  
**Bid No. 11-060**

Bidders must be registered on the City/County's E-Bid site in order to respond to the above Bid. To Register go to: [lincoln.ne.gov](http://lincoln.ne.gov) (type: e-bid - in search box, then click "Supplier Registration")

Upon e-mail notification of registration approval, you may go to the E-Bid site to respond to this bid. Questions concerning this bid process may be directed to City/County Purchasing at (402) 441-7416 or (402) 441-8309 or [rwalla@lincoln.ne.gov](mailto:rwalla@lincoln.ne.gov)